

**SANDLER, REIFF & YOUNG, P.C.**

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July 28, 2008

Jeff S. Jordan, Esq.  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

Re MUR 6021

Dear Mr. Jordan:

The undersigned represent the respondent, Democratic National Committee ("DNC"). This matter was generated by a Complaint filed by Ralph Nader on May 30, 2008. The Complaint alleges that in the 2004 Presidential election cycle, the DNC, the Kerry-Edwards campaign and more than a hundred other organizations and individuals engaged in a nationwide effort to deny ballot access to the Nader-Camejo campaign for the purpose of benefiting the Kerry-Edwards campaign. With respect to the DNC, Mr. Nader alleges that the DNC violated 2 U.S.C. §§ 434 and 441b by accepting and not reporting in-kind contributions in the form of legal services from law firms who represented the challengers to the Nader-Camejo ballot access petitions in 18 states.

First, the Commission has already rejected the allegations in this Complaint when it dismissed MUR 5509, albeit filed by a different complainant alleging violations of the Presidential Campaign Fund Act. MUR 5509 also alleged that the DNC and the Kerry-Edwards campaign conspired with others to deny Nader access to the 2004 presidential ballot in 12 states. MUR 5509 Complaint ¶ 8. Like the current Complaint, the complaint in MUR 5509 supported the same allegations by referring to statements by Toby Moffet and Terry McAuliffe and of meetings that coincided with the Democratic National Convention. Compare, *id.* at ¶¶ 10 and 11 with Complaint at ¶ 6 and ¶¶ 155 - 163. Because the Commission found no reason to believe that a violation had occurred in MUR 5509, it should not re-visit that decision here.

Second, the Complaint alleges actions by the DNC, such as filing ballot access challenges in its own name and actions by a DNC staff member and consultant, and attaches documentation to support those allegations. However, the attachments do not support those allegations. The DNC did not and could not have filed challenges in its own name, there is nothing illegal about DNC employees and consultants monitoring the ballot access challenges, and the Complaint does not provide any evidence of DNC participation in the ballot access petition challenges.

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Third, even if the Complaint's allegations were true that law firms represented clients who filed ballot access petition challenges and those challenges benefited the Kerry-Edwards campaign, the Complaint fails to allege a violation by the DNC. The Complaint does not provide any evidence that any of the ballot access petition challenges were filed by or on behalf of the DNC (or the Kerry-Edwards campaign). The allegation that the Kerry-Edwards campaign benefited is irrelevant to the sole question here: whether the DNC received and should have reported an illegal in-kind contribution from law firms that represented individuals who filed the ballot access petition challenges. The Complaint does not allege, nor can it, that the lawyers representing the ballot petition challengers represented the DNC or performed legal services for the DNC. Thus, even if services were provided to ballot access challengers, the DNC did not receive an in-kind contribution, and there was nothing to report. To the extent that the Complaint notes that the DNC made disbursements to law firms involved in the ballot petition challenges, that is also not illegal and was disclosed. Thus, for the reasons stated more fully below, the Commission should find no reason to believe that any violation of the Federal Election Campaign Act or the Commission's regulations occurred and should close the file in this matter.

### BACKGROUND

This Complaint is the latest of many attempts by Ralph Nader and his supporters to attack the states' ballot access laws that he believes inhibit his political campaigns. In 2004, he challenged state laws directly and is still campaigning against them. See, e.g., *Nader v. Brewer*, No. CV-04-01699, slip op., (9th Cir. July 9, 2008) (challenging Arizona ballot law). Even his current presidential campaign's web site asserts: "Currently, ballot obstruction can consume upwards of a quarter million dollars in a federal campaign's budget to get on the ballot in one or more states. Without candidates' rights to be on the ballot—in a country where ninety percent of House districts are one-party dominated heavily due to gerrymandering—voters are becoming further disenfranchised." <http://www.votenader.org/issues/ballot-access> (visited July 27, 2008). The Complaint represents the latest collateral attack on those laws by attempting to inhibit the First Amendment right to challenge ballot access petitions by supporters of another candidate.

Mr. Nader's supporters made the same allegations that are in the Complaint in *Fulanis v. McAuliffe*, 2005 U.S. Dist. Lexis 20400 (S.D.N.Y. Sept. 19, 2005), which was summarily dismissed. As noted above, those supporters filed a complaint with the Commission again alleging the same facts, which the Commission dismissed at the reason-to-believe stage. MUR 5509.

Here, Mr. Nader makes the same allegations that he made in three pending federal court lawsuits. In *Nader v. Democratic National Committee*, Civ. No. 07-cv-2136-RMU (D.D.C.), he alleged that these facts constituted an abuse of process, malicious prosecution and a conspiracy to abuse process and malicious prosecution. The district court dismissed that case and Mr. Nader has appealed. *Id.* (Order filed May 27, 2008). In *Nader v. Terry McAuliffe*, Civ. No. 08-cv-00428-RMU (D.D.C.) (transferred from E.D. Va.) and *Nader v. Democratic National Committee*, Civ. No. 08-cv-00589-RMU (D.D.C.), Mr. Nader alleged that these facts violated his constitutional right to run for federal office and his supporters' constitutional right to vote for the candidate of their choice in violation of 42 U.S.C. § 1983 and conspiracy to violate 42 U.S.C. §

1983 Motions to dismiss those cases are pending Here, he is alleging that these facts constitute violations of 2 U S C §§ 434 and 441b

Mr Nader is having his day in court in the three pending civil court actions, and consequently, there is no reason for the Commission to expend its limited staff resources in this sixth attempt to avoid the consequences of the state ballot access laws in the 2004 presidential campaign

## FACTS

A close reading of the Complaint reveals many conclusory assertions about the DNC but few factual allegations supported by the attachments Accordingly, the Complaint provides insufficient evidence to find a reason-to-believe a violation has occurred

The first incorrect conclusory assertion is that the DNC is responsible for all of the actions of all of the entities and individuals who are alleged to be "allied entities and/or affiliates of the Democratic Party" Complaint at 2 While it is true that many individuals are democrats and contribute to the Democratic national, state and local parties and that the state Democratic Party committees are affiliated with the DNC and are represented on the DNC, the DNC is an independent entity It receives its own contributions and makes its own expenditures, as do the state party committees Contributions and expenditures by the state Democratic parties do not belong to the DNC and are not reportable by the DNC Individual Democrats and entities that support Democratic Party policies and candidates, which are also supported by the DNC, make expenditures and contributions and volunteer their own time and resources independent of the DNC Thus, the Complaint's allegation—that the DNC should have reported as in-kind contributions the efforts of those individuals and entities that opposed the Nader-Camejo ballot access petitions merely because they are Democrats and support the Democratic nominee for President—is facially incorrect

The Complaint asserts that the ballot access petition challenges were initiated "with the knowledge and consent of Terry McAuliffe and John Kerry, and they coordinated their efforts with the DNC" and others Complaint at 2 However, the Complaint fails to allege any specific facts and provides no evidence to support this assertion Allegations that former DNC chairman Terry McAuliffe and others opposed Mr Nader's candidacy and some desired to keep Mr Nader off a state ballot, Complaint at 5-6, is not evidence of an expenditure by the DNC Such political speech is protected by the First Amendment and is not evidence of an agreement by the DNC, or anyone else, to file a ballot petition

The Complaint alleges that the "Democratic Party itself sued Nader-Camejo in 11 states" Complaint at 6 However as the Complaint itself demonstrates, the DNC was not a party to any petition challenges The Complaint alleges that "DNC officials initiated six lawsuits in their own names" Complaint at 6 However, the challengers, who were members of the DNC, are individuals who also are officers of their state Democratic Party committees As demonstrated by the Complaint itself, these individuals filed challenges in their own names and not as agents of the DNC

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Mr Nader alleges that the DNC retained five law firms that represented ballot access petition challengers. Complaint at 6. Any expenditures the DNC made for legal services related to those challenges were reported and, therefore, would not constitute a reporting violation. And it certainly was not illegal for the DNC to make those disbursements. In addition, any expenditure by the DNC to those law firms would not create a reportable coordinated in-kind contribution by the attorneys representing the ballot petition challengers. At most, this would be evidence that the DNC was assisting a ballot challenge rather than evidence of a ballot challenger's attorney assisting the DNC. Merely because the DNC and a ballot challenger opposed Mr Nader's ballot petitions and each expended their own funds to do so is not evidence that the ballot challengers' attorneys made a contribution to the DNC, which was not a party to the challenges and was not represented by those attorneys.

In the final attempt to demonstrate that the DNC received an in-kind contribution from over 100 attorneys and law firms, Mr Nader points to an email allegedly from a joint DNC and Kerry-Edwards employee to DNC employees attaching a script entitled "Script for Nader Petition Signers" authored by a attorney who served as a consultant to the DNC and the Kerry-Edwards campaign. Complaint at 7 and ¶ 167 citing Exhibit 7. This allegation does not support any charge of violation of the Act or Commission regulations. As described above, there is nothing illegal about a DNC staffer and consultant assisting the ballot access challenges.

As described in more detail below, the Complaint does not provide any evidence that the DNC accepted and failed to report in-kind contributions from law firms representing clients in the ballot access petition challenges.

#### ANALYSIS

1. The Commission should not reconsider facts for which it has already found no reason to believe a violation occurred.

The Commission is not required to reconsider allegations in a second complaint that are substantially similar to a complaint that it has already dismissed. In *National Rifle Assoc. v. Federal Election Comm'n* ("NRA"), 854 F.2d 1330 (D.C. Cir. 1988), the court considered a situation similar to the one before the Commission now. The General Counsel submitted a report with respect to the first complaint that recommended finding no reason-to-believe ("RTB") a violation had occurred with respect to one allegation, find RTB with respect to another allegation, and, nevertheless, take no further action. The Commission adopted the General Counsel's recommendation. *Id.* at 1333. The complainant submitted another complaint that it argued raised additional facts and asserted additional violations. The D.C. Circuit found that "a careful reading of the two complaints reveal[ed] that the NRA's allegations did not materially vary. In effect, the [subsequent] complaint gave specificity and concreteness to the allegations already advanced in the [previous] complaint." *Id.* at 1335. The court also found that the two complaints submitted by the NRA did not involve "distinct legal issues," in that the first complaint "challenged [respondent's] compliance with the conciliation agreement, whereas the third complaint alleged a violation of the Act. This is sleight-of-hand reasoning." *Id.* at 1336. "Thus was, as Yogi Berra is reputed to have said, 'deja vu all over again.' Having raised that issue in the [previous] complaint and failed to appeal the Commission's order, the [complainant]

cannot obtain judicial review of the issue by the expedient of bringing it before the FEC once again " *Id*

Like the allegations set out in the complaints in the *NRA* case, the basic allegation of the current Complaint by Mr Nader is exactly the same as the one set forth in MUR 5509 by a Nader supporter lawyers and law firms provided in-kind legal services to the DNC and the Kerry-Edwards campaign when they represented challengers to Mr Nader's ballot petitions in the 2004 election In MUR 5509, this allegation supported the assertion that the DNC and the Kerry-Edwards campaign violated the Presidential Campaign Fund Act, and in this MUR the allegation supported a violation of FECA However, the General Counsel's reasoning in MUR 5509 applies equally here "[t]he type of activity that is alleged to have occurred, the scrutinizing and challenging of Nader ballot petitions, or the provision of expertise on the process, constitutes activity which could have been volunteered The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution 2 U S C § 431(8)(A)(i), 11 C F R § 100.74 Thus, the respondents may not have received any contributions or incurred any expenditures associated with the ballot challenge activity " MUR 5509 First Gen Cnsl Rep at 5 (Feb 24, 2005) Having found insufficient evidence of an in-kind contribution to make a RTB finding in MUR 5509, the same reasoning applies to Mr Nader's asserted violations by the DNC Accordingly, there is no reason for the Commission to reconsider the assertions in Mr Nader's current Complaint

Mr Nader argues that MUR 5509 is distinguishable because the current Complaint includes new evidence Complaint at 4 n1 However, Mr Nader is incorrect The only new evidence Mr Nader cites and provides is "FEC records," Complaint at ¶ 166, which presumably are DNC's FEC campaign finance reports attached to the Complaint describing expenditures to five law firms for legal and consulting services The Commission, however, had these reports in 2005 when it dismissed MUR 5509 <sup>1</sup>

Accordingly, the differences between MUR 5509 and the current Complaint are no more than to give "specificity and concreteness to the allegations already advanced in" MUR 5509 *NRA* at 1335 The Commission's conclusion that there was insufficient evidence of a contribution is equally dispositive in MUR 5509 and the current MUR The Complaint's attempt to distinguish the two is no more than "sight-of-hand reasoning " *Id* at 1336 Accordingly, the Commission should not consider and devote enforcement resources to Mr Nader's rambling 99 page complaint against the DNC, the Kerry-Edwards campaign, many state Democratic parties and more than 100 lawyers around the country who did nothing more than represent their clients in ballot petition cases

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<sup>1</sup> As noted above, the Complaint is self-contradictory If those payments to law firms were for legal services related to the ballot cases as alleged, there would be no in-kind contributions The law firms would have been paid by the DNC and the DNC reported the payments Thus, the asserted violation of 2 U S C 441b and 434 would not have occurred

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2. **The DNC was not a party in any of the ballot access petition challenges and, consequently, did not receive any legal services from volunteers.**

Even if the Commission considers the Complaint, it should not find RTB that any violation of sections 441b or 434 occurred. The Complaint asserts, in essence, that any effort that benefited the Kerry-Edwards campaign was a contribution to the campaign and the DNC. That is not, however, an accurate description of the FECA and the Commission's rules. Simply because a federal candidate benefits from some person's independent action does not mean that a "contribution" under 2 U S C § 431(8)(A) has been made to the candidate or the candidate's committee. It certainly does not mean that a contribution was made to the DNC. All over the country, individuals with no association to Democratic candidates or the DNC talked to their neighbors in support of the Democratic candidates. They might have driven neighbors to the polls or engaged in other activity that supported the Democratic candidates. And they may have engaged in activity that opposed non-Democratic candidates. Indeed, an individual may file a challenge to a candidate's ballot access petition. All of these activities may have influenced an election, but none of them were in-kind contributions to the Democratic Party's candidates or the DNC.

Furthermore, individuals, including lawyers may volunteer their services, and according to the complaint almost 100 lawyers volunteered to assist the ballot petition challengers. Even if these lawyers had volunteered to assist the DNC, there would not be a violation of sections 441b or 434 because volunteer activity is exempt from the definition of contribution. 2 U S C § 431(8)(B)(i).

With respect to the DNC specifically, the Complaint conflates support by an individual for a state or local Democratic Party committee and action by a state or local Democratic Party committee with a contribution to the DNC. This is also incorrect. All of these entities are separate and distinct, with their own reporting responsibilities, even if they support the same goals and candidates. Support for the activities of one committee is not a contribution to all.

Thus, the Complaint's assertions that the DNC accepted and failed to report in-kind contributions fails because the Complaint merely alleges that individuals supported by lawyers and law firms filed ballot petition challenges that aided the Kerry-Edwards campaign. But the Complaint does not allege that those challenges were initiated, controlled or directed by the DNC.

The DNC was not a party in any of the ballot access petition challenges despite the general allegation in the Complaint on page 6. See Complaint ¶¶ 172, 178, 181, 185, 197, 208, 212 (Dorothy Melanson, who filed one of the two the complaints on her own behalf, was the Chair of the Maine Democratic Party and, like all state party chairs, was also a member of the DNC), ¶ 219 (Mark Brewer, who filed a complaint on his own behalf, was the Michigan Democratic Party Chair, again, like all state chairs also a member of the DNC), ¶ 222 (Wayne Dowdy, who filed a complaint on his own behalf, was the Chairman of the Mississippi Democratic Party and a member of the DNC), ¶¶ 225, 228 (Kathleen Sullivan and the New Hampshire Democratic State Committee filed a complaint, and Ms. Sullivan with others filed a second complaint, Ms. Sullivan was Chair of the New Hampshire Democratic Party and a member of the DNC), ¶¶ 235, 241, 270, 271, 290, 296, 302 (Democratic Party of Wisconsin and Kim Warken, who filed a complaint on her own behalf, was the executive director of the Wisconsin Democratic Party).

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While the vast majority of the ballot access challenges were filed by individuals who held no official position in the DNC or any of the Democratic state parties, a few of the Democratic Party state officials filed petitions on their own behalf. An associational affiliation with an organization (or two, three, etc.), however, does not provide evidence or even a suggestion that the DNC was a party to any of these challenges. Therefore, the lawyers representing these challenges were not representing the DNC and did not make an in-kind contribution of their services to the DNC. The Complaint alleges in various places that the DNC paid for the legal services to challenge the Nader-Camejo ballot petitions, e.g. ¶ 166, and in other places the Complaint alleges that legal services were provided at no cost. Even assuming that both allegations in the Complaint were true, there would be no violation because an individual attorney's volunteer time is exempt from the definition of contribution under 2 U.S.C. § 431(8)(B)(i) and, as the Complaint alleges, the DNC timely reported the compensation it paid to attorneys for other services as expenditures.

The Complaint cites AO 2006-22, 2 U.S.C. § 431(8)(A)(ii) and 11 C.F.R. § 100.54 to support the assertion that "[u]nder these circumstances, the FEC has held that the value of legal services provided by such paid employees constitutes a contribution by their law firm employers." Complaint ¶ 310. This assertion is incorrect for a number of reasons.

First, the complaint in MUR 5509 makes substantially the same allegations, and the Commission found them insufficient to find RTB. The same reasoning applies to the same facts alleged here.

Not only does the complaint fail to advance a 'sufficiently specific allegation' of a violation of the act sufficient to warrant a factual investigation and a legal analysis, the other facts upon which it does rely are also insufficient bases on which to open an investigation. The type of activity that is alleged to have occurred, the scrutinizing and challenging of Nader ballot petitions, or the provision of expertise on the process, constitutes activity which could have been volunteered. The value of services provided without compensation by any individual who volunteers on behalf of a candidate or political committee is not a contribution. 2 U.S.C. § 431(8)(A)(i), 11 C.F.R. § 100.74. Thus the respondents [DNC and Kerry-Edwards campaign] may not have received any contributions or incurred any expenditures associated with the ballot challenge activity.

MUR 5509 First Gen. Cnsl. Rep. at 5 (Feb. 24, 2005). Thus, even if the Commission decides to consider the allegations in the Complaint, it should reach the same conclusion it reached in MUR 5509 because the evidence provided in the complaints are substantially the same – there is no evidence that anything other than volunteer legal services were provided to the ballot petition challengers.

Second, AO 2006-22, which was issued years after the alleged violations, does not support the Complaint's assertions. The question presented in AO 2006-22 was "Would the [law] firm's preparation, free of charge, of an amicus brief *on behalf of* the Wallace Committee

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be a *contribution to the Committee* " (emphasis supplied) The Commission answered yes "[b]ecause the definition of 'contribution' under 2 U S C 431(8)(A)(ii) and 11 CFR § 100.54 applies to services *provided to a political committee* 'for any purpose '" (emphasis added) The Commission compared the situation in AO 2006-22 with the question presented in AO 1980-4 "The commission concluded that a contribution did not result because the compensation paid for legal services that enabled the political committee in question to present a defense to a complaint alleging violations outside the purview of the Act, as distinguished from permitting compensated personnel *to engage in the political committee's political activities* " AO 2006-22 (emphasis added) The Complaint here does not allege that any law firm or lawyer provided any services to the DNC, nor could it because the DNC was not a party to any of those challenges and, consequently, the lawyers did not provide any services to the DNC for those challenges In addition, the petition challenges themselves were outside the purview of the Act Furthermore, the Complaint failed to allege that any law firms provided uncompensated services to the few state parties that filed challenges To the extent that the Complaint alleges that free legal services were provided, it was probably provided by the almost 100 lawyers who volunteered their time to the individuals who filed the challenges <sup>2</sup>

Accordingly, the DNC did not receive and fail to report any in-kind legal services from law firms representing ballot access petition challengers

3. **Alleged statements by DNC Chair McAuliffe opposing Mr. Nader's candidacy are protected by the First Amendment and not evidence of a plot coordinated by the DNC.**

The Complaint makes conclusory assertions but provides no evidence of a coordinated effort by the DNC All the Complaint claims is that Toby Moffett, who is not even alleged to be connected with the DNC, met with individuals who were, among other things, officers in various state Democratic Parties and consultants to various organizations Mr Moffett supposedly met with these individuals during the Democratic National Convention in August 2004 to discuss political strategies for opposing the Nader campaign As a factual matter, some of the state Democratic party leaders were also members of the DNC by virtue of their positions in their state parties But the Complaint does not allege that these individuals were acting in any organizational capacity, much less as agents for the DNC Thus, the Complaint also fails to allege that the DNC approved or even participated in the alleged meetings

The only reference in the Complaint to a DNC official acting in that role are the two statements alleged to have been made by then-DNC National Chair Terry McAuliffe to the press Complaint ¶ 163 He is alleged to have made the unremarkable statements that "any votes taken away from John Kerry clearly are a threat," and "we can't afford to have Ralph Nader in the race " Neither this statement nor the statements alleged to have been made by Mr Moffett, state Democratic Party leaders, or their consultants is evidence of a coordinated effort that involved unreported in-kind contributions to the DNC Nor is there evidence that DNC payments to law

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<sup>2</sup> Although there is no evidence that legal services were provided to the DNC, even if it occurred, volunteer time is exempt from the definition of contribution 2 U S C § 431(8)(B)(i)



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firms was for the ballot access challenges. Indeed the opposite is true, as even the Complaint acknowledges. Complaint at 4 n 1. The General Counsel credited Mr. McAuliffe's statement that the DNC did not pay for the ballot access challenges. *Id.*, MUR 5509 First Gen. (Feb. 24, 2005) Rep. at 4.

As noted above, the alleged facts and assertions are the same as those alleged by Mr. Nader in *Nader v. Democratic National Committee*, Civ. No. 1:07-cv-02136-RMU, Document 54 (D.D.C.) (Order filed May 27, 2008) ("Opinion"), *Nader v. Terry McAuliffe*, Civ. No. 1:08-cv-00428-RMU (D.D.C.) (transferred from E.D. Va.) (motions to dismiss pending), and, *Nader v. Democratic National Committee*, Civ. No. 1:08-cv-00589-RMU (D.D.C.) (motions to dismiss pending). Like the Complaint here, the Nader complaints in these cases alleged a conspiracy involving the DNC, the Kerry-Edwards campaign and more than a hundred others. The same facts were alleged by supporters of Mr. Nader in *Fulan v. McAuliffe*, 2005 U.S. Dist. Lexis 20400 (S.D.N.Y. Sept. 19, 2005). Both district courts addressed the assertion that the alleged statements were indicia of an illegal conspiracy and that filing challenges to Mr. Nader's ballot petitions were unconstitutional.

Filing challenges to Mr. Nader's ballot petitions was not unconstitutional and is activity protected by the First Amendment, as explained by the *Noerr-Pennington* doctrine. "The *Noerr-Pennington* doctrine holds that defendants who petition the government for redress, 'whether by efforts to influence legislative or executive action or by seeking redress in court,'" are immune from liability for such activity under the First Amendment. *Opinion* at 22 (citations omitted). In this case, as in Mr. Nader's court complaints, "[t]he plaintiffs vigorously proclaim that the defendants brought the various challenges with the self-serving intent to prevent Nader from competing with Kerry in the 2004 election. But the First Amendment cannot be abrogated simply by alleging that one's political opponent turned to the judicial process for partisan motives." *Id.* at 25 (citations omitted). In a case that involved the same factual allegations by voters supporting Mr. Nader and Mr. Camejo in 2004, "Plaintiffs [*Fulan et al.*] also allege[d] that certain statements by Defendants [*DNC et al.*], specifically Defendant McAuliffe's public statements about the 'importance of eliminating Nader as a factor in the race' also violated Plaintiffs' voting and equal protection rights. However, political speech is 'at the core of our electoral process and of our First Amendment freedoms.'" *Fulan*, 2005 U.S. Dist. Lexis 20400 at \*12 (citation omitted). "Defendants' public political statements are not violative of Plaintiffs' rights in any way." *Id.* at \*13. Accordingly, political statements by Mr. McAuliffe and the filing of ballot petition challenges by dozens of individuals were First Amendment protected activity, and Mr. Nader has been unable to provide any evidence of a conspiracy involving the DNC.

As described above, the Complaint makes allegations and assertions based on public statements, but it ultimately fails to provide any evidence of a national conspiracy coordinated by the DNC to obtain legal services from law firms at no cost. As such, the Commission should not find RTB that the DNC has committed any violation under the Act.

**4. The DNC did not file any ballot access petitions.**

The Complaint also alleges that "DNC employee Caroline Adler," "DNC consultant Jack Corrigan" and Perry Plumart helped prepare the ballot access petitions. Complaint at 7 and ¶ 167 (citing Exhibit 7). The Complaint, however, fails to describe any such assistance that these individuals gave to the ballot access challengers or their law firm representatives. The Complaint also identifies Perry Plumart as a "Nader coordinator." However, all of these allegations are irrelevant to the sole issue of whether the DNC received corporate contributions in violation of section 441b and failed to report them in violation of section 434. There is no indication that the DNC filed the ballot petition challenges, and there is no evidence that anyone at the DNC accepted corporate in-kind contributions to do so. All of the evidence provided with the Complaint demonstrates that the DNC reported expenditures to law firms, and almost 100 individual lawyers volunteered their time to assist individuals who filed ballot petition challenges on their own behalf. Moreover, those persons who filed petitions were engaged in activity protected by the First Amendment.

**CONCLUSION**

For all of the reasons described above, the Commission should find no reason to believe any violation of the law occurred, the Complaint should be dismissed, and the Commission should close the file.

Respectfully submitted,



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